

Title	Mandatory Affidavit of Nonliability Form for Automated Traffic Enforcement System Notice to Appear
Summary	A uniform Affidavit of Nonliability form is proposed to standardize the procedure required by Vehicle Code section 40520 for asserting nonliability for a traffic citation (notice to appear) issued by an automatic enforcement devise system under Vehicle Code section 40518.
Source	Traffic Advisory Committee
Staff	Courtney Tucker, Court Services Analyst (415) 865-7611
Discussion	<p>The Judicial Council previously approved a notice to appear form for red light violations issued by an automated enforcement system. (See Veh. Code, § 40518.) Vehicle Code section 40520 requires the automated enforcement system notice to appear to be accompanied by an affidavit of nonliability. As there is no Judicial Council-approved affidavit of nonliability, there is no standardized text or procedure for the affidavit. As a result, there are widely varying affidavits, some of which may not satisfy statutory requirements.</p> <p>This proposal will ensure that the affidavit satisfies legal requirements and does not unduly burden defendants. The form incorporates the following requirements set forth in Vehicle Code section 40520:</p> <ol style="list-style-type: none"> 1. Includes a statement of nonliability for the defendant to assert that he or she was not driving the vehicle described in the notice at the time of the violation. (Veh. Code, § 40520(a).) 2. Advises that knowingly offering a false affidavit for filing is a felony offense punishable by imprisonment in state prison under Penal Code sections 115, 118, and 126. (Veh. Code, § 40520(a).) 3. Provides instructions for returning the affidavit to the issuing agency by returning the completed form in the envelope provided. (Veh. Code, § 40520(a).) 4. Provides car rental or leasing companies instructions for completing the form if the violation occurred when the vehicle was either leased or rented and operated by a person other than an employee of the rental or leasing company. (Veh. Code, § 40520(b)(1) and (2).) 5. Allows registered owners, other than renting and leasing companies, to execute an affidavit by identifying the person who was the driver of the vehicle at the time of the alleged violation. (Veh. Code, § 40520(c).) <p>The proposed TR-117 is formatted to be the same size as the notice to</p>

	<p>appear form, allowing it to be easily mailed in a standard size envelope. The form is formatted so that it can be integrated as a discrete portion of a larger document or printed as a separate document that is formatted either back-to-back or side-by-side on the same page as the notice to appear or as a separate document.</p>
--	--

Attachment

CITATION NUMBER:

Mailing Date of Notice:

IF YOU WISH TO FILE AN AFFIDAVIT OF NONLIABILITY, you must fill in the information required on the Affidavit, and mail the Affidavit portion of this Notice in the envelope provided within 30 days of the mailing date of this Notice.

Response Due By:

Person filing Affidavit of Nonliability:

{Insert name and address of agency}	{Insert name and address of person cited}
-------------------------------------	---

Affidavit of Nonliability Form adopted by the Judicial Council of California
New xx-xx-xx (Veh. Code, § 40520)

TR-117

AFFIDAVIT OF NONLIABILITY (Veh. Code, § 40520)

CITATION NO. _____

To assert your nonliability because you were not driving the vehicle described in the Notice at the time of the violation, fill out the information below identifying the person actually driving or the new owner of the vehicle. KNOWINGLY OFFERING A FALSE AFFIDAVIT FOR FILING IS A FELONY OFFENSE PUNISHABLE BY IMPRISONMENT IN STATE PRISON. (Pen. Code, §§ 115, 118, and 126.)

Check one of the following: ☐ New Owner (If vehicle was sold PRIOR TO VIOLATION date) ☐ Identified Driver (Driver – other than registered owner)

Print Individual's Name: _____

A bona fide car renting or leasing company must also include proof of a written rental agreement or lease that provides the address and driver license number of the renter or lessee. Address: _____

Driver License/I.D. No.: _____ CITY _____ STATE _____ ZIP CODE _____
Issued in the State of: _____

DECLARATION

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING INFORMATION I HAVE PROVIDED IS TRUE AND CORRECT.

Print Your Full Name: _____ Signature: _____ Date: _____

Detach the completed Affidavit and mail it within 30 days of the mailing date of the notice to appear in the envelope provided to:

{Insert name and address of agency}